



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

April 17, 2015

Discovery Development  
ATTN: Mr. Anatoliy Gurnik  
6168 NE Highway 99, Suite 201  
Vancouver, WA 98665

RE: Water Quality Certification Order No. **11348** for Corps Public Notice No.  
NWS-2013-229, North 28<sup>th</sup> Street Townhouses, Long Beach, Pacific County,  
Washington

Dear Mr. Gurnik:

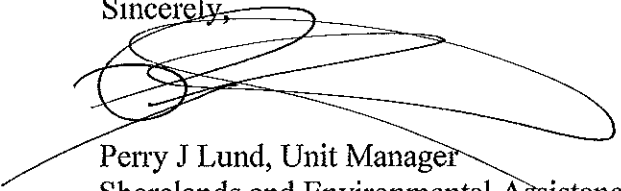
On February 15, 2013, Discovery Development submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) for a Section 401 Water Quality Certification (401 Certification) under the federal Clean Water Act for the North 28<sup>th</sup> Street Townhouses in Pacific County, Washington.

The proposed project will construct an eight-unit townhouse complex with associated driveways, utilities, culverts, and a turnaround in the east portion of the property. The purpose of the project is to provide medium density residential housing.

On behalf of the State of Washington, Ecology certifies that the work described in the JARPA and the public notice complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

If you have any questions, please contact Lori Kingsbury at 360-407-6926 or loch461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,



Perry J Lund, Unit Manager  
Shorelands and Environmental Assistance Program  
Southwest Regional Office

Enclosure

By Certified Mail 7012 2920 0000 1182 1949



cc: Ron Wilcox, U.S. Army Corps of Engineers  
Karey Bock, Ecological Land Services, Inc.

e-cc: [ecyrefedpermits@ecy.wa.gov](mailto:ecyrefedpermits@ecy.wa.gov)  
Rick Mraz, Ecology SWRO-SEA  
Loree' Randall, Ecology HQ-SEA  
Lori Kingsbury, Ecology SWRO-SEA  
Deborah Cornett, Ecology SWRO-WQ

<b>IN THE MATTER OF GRANTING A</b>	)	<b>ORDER No. 11348</b>
<b>WATER QUALITY</b>	)	<b>Corps Reference No. NWS-2013-229</b>
<b>CERTIFICATION TO</b>	)	North 28 <sup>th</sup> Street Townhouses, Wetlands, City of
<b>Discovery Development</b>	)	Long Beach, Pacific County, Washington.
in accordance with 33 U.S.C. 1341	)	
(FWPCA § 401), RCW 90.48.120, RCW	)	
90.48.260 and Chapter 173-201A WAC	)	
	)	
	)	

TO: Discovery Development  
ATTN: Mr. Anatoliy Gurnik  
6168 NE Highway 99, Suite 201  
Vancouver, WA 98665

On February 15, 2013, Discovery Development submitted a Joint Aquatic Resource Permit Application (JARPA) to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A joint public notice regarding the request was distributed by the Army Corps of Engineers (Corps) for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on April 21, 2014.

The proposed project will subdivide approximately 1.27 acres for the development of eight townhouse units on nine lots with associated driveways, utilities, culverts, and a turnaround in the east portion of the property. The purpose of the project is to provide medium density residential housing.

The development will fill 0.098 acres of interdunal wetlands; indirectly impact 0.52 acres of wetlands and approximately 0.41 acres of wetland buffer impacts.

Proposed mitigation to compensate for most of the direct, indirect, and wetland buffer impacts (1.028 acres) will occur as offsite preservation through the purchase of mitigation bank credits at the Long Beach Wetland Mitigation Bank in Long Beach, WA. A portion of the indirect wetland impacts (0.125 acres) will be mitigated through onsite preservation of 0.752 acres of the existing Category II wetlands.

The proposed project is located north of North 28<sup>th</sup> Street, City of Long Beach, Pacific County, Washington, 98361; NE Quarter of Section 8, Township 10 North, Range 11 West; WRIA 24, Willapa Watershed.

#### **AUTHORITIES:**

In exercising authority under 33 U.S.C. § 1341, 16 U.S.C. § 1456, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 302, 303, 306, and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and,
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

#### **WATER QUALITY CERTIFICATION CONDITIONS:**

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will not violate applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

#### **A. General Conditions:**

1. For purposes of this Order, the term "Applicant" shall mean Discovery Development, and its agents, assignees and contractors.
2. All notifications and submittals required by this Order shall be sent to Ecology's Southwest Regional Office, Attn: Federal Permit Manager, PO Box 47775, Olympia WA 98504-7775 or via e-mail (preferred) to loch461@ecy.wa.gov. The submittals shall be identified with **Order No. 11348** and **Corps Reference No. NWS-2013-229**, the Applicant's name, project name, and project location.
3. Work authorized by this Order is limited to the work described in the JARPA received by Ecology on February 15, 2013, unless otherwise authorized by Ecology.
4. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.

5. Within 30 days of receipt of any updated information, Ecology will determine if the revised project requires a new water quality certification and public notice or if a modification to this Order is required.
6. This Order shall be rescinded if the U.S. Army Corps of Engineers does not issue a Section 404 and/or Section 10 permit for the project.
7. The Applicant shall keep copies of this Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
8. The Applicant shall provide access to the project site and all mitigation sites upon request by Ecology personnel for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
9. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (e.g., violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect water quality.
10. The Applicant shall ensure that all appropriate project engineers, agents, and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permit, plans, documents, and approvals. These statements shall be provided to Ecology before construction begins at the project site.
11. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state or related aquatic resources, except as specifically provided for in conditions of this Order.
12. Failure of any person or entity to comply with the Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

#### **B. Wetland Compensatory Mitigation Conditions**

1. The Applicant shall revise the *Conceptual Wetland and Wetland Buffer Mitigation Plan for North 28<sup>th</sup> Street Townhouses, Long Beach, Washington* (hereafter called the "Mitigation Plan") prepared by Ecological Land Services, dated July 12, 2010, to address all impacts, avoidance and minimization measures and all proposed mitigation for the proposed project. The revised plan shall include information

related to the on-site wetland preservation component as well as the bank use plan for the purchase of wetland bank credits at the Long Beach Mitigation Bank.

2. The revised mitigation plan shall be submitted to Ecology (per condition A.2., above) for review and **approval** at least 30 days prior to beginning any work at the project site. Work is not authorized to begin until written approval is received.
3. Prior to impacting wetlands, the Applicant shall submit to Ecology documentation from the bank sponsor verifying the purchase of the appropriate number of wetland mitigation bank credits (credits) from the Long Beach Mitigation Bank. This documentation must include the permit number, permit issuance date, impact acreage, the amount of credits required by the permit, and date of credit purchase.
4. The Applicant shall notify Ecology of any changes to the amount of wetland impacts, or revisions to the mitigation plan.
5. The Applicant shall complete the purchase of credits before the impacts to wetlands occur or Ecology may require additional compensation to account for temporal loss of wetland functions.
6. If the credits are not purchased within 13 months of the date of this Order, the Applicant shall inform Ecology, in writing, of the status of:
  - a) The North 28<sup>th</sup> Street Townhouses
  - b) When bank credits will be purchasedWith the:
  - c) Reason for the delay
  - d) Expected date of completionThe Applicant shall submit an updated written notification every 12 months thereafter until the North 28<sup>th</sup> Street Townhouses project is complete and the required credits are purchased.
7. The Applicant shall ensure that no construction debris is deposited within existing wetland and their buffers at the on-site wetland preservation site at any time.
8. The Applicant shall place signs at the wetland preservation area's boundaries, including buffers, every 100 feet to mark the area as a wetland mitigation site.
9. The Applicant shall record a Wetlands Notice for the on-site preservation portion of the mitigation (see Attachment B: Wetland Notice for Deed Notification). The Notice must be recorded with the County Recording Office, Registrar of Deeds,

or other official responsible for maintaining records for, or interest in, real property.

**C. Timing Requirements**

This Order shall remain in effect for a period of five (5) years from the date of issuance.

**D. Emergency/Contingency Measures:**

1. The Applicant shall develop a spill prevention and containment plan for this project, and shall have spill cleanup materials and an emergency call list available on site.
2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or operator shall immediately take the following actions:
  - a. Cease operations that are causing the compliance problem.
  - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
  - c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
  - d. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
  - e. Immediately notify Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events Ecology's Federal Permit Manager at (360) 407-6926.
  - f. Submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.

4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology using the above phone numbers.

#### **YOUR RIGHT TO APPEAL**

You have a right to appeal this Order to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

#### **ADDRESS AND LOCATION INFORMATION**

<b>Street Addresses</b>	<b>Mailing Addresses</b>
<b>Department of Ecology</b> Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	<b>Department of Ecology</b> Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
<b>Pollution Control Hearings Board</b> 1111 Israel RD SW STE 301 Tumwater, WA 98501	<b>Pollution Control Hearings Board</b> PO Box 40903 Olympia, WA 98504-0903



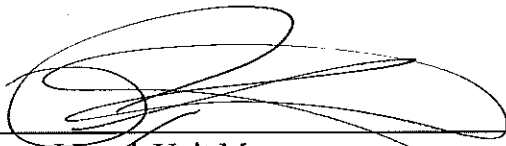
Order No. 11348  
Corps No. NWS-2013-229  
April 17, 2015  
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#### CONTACT INFORMATION

Please direct all questions about this Order to:

Lori Kingsbury  
Department of Ecology  
Southwest Regional Office  
Post Office Box 47775  
Olympia, Washington 98504-7775  
[loch461@ecy.wa.gov](mailto:loch461@ecy.wa.gov)

#### SIGNATURE

  
\_\_\_\_\_  
Perry J Lund, Unit Manager  
Shorelands and Environmental Assistance Program  
Southwest Regional Office  
Department of Ecology  
State of Washington

4/17/15  
\_\_\_\_\_  
Date



**Attachment A**

Discovery Development  
North 28<sup>th</sup> Street Townhouses  
**Ecology Order No. 11348**  
**Corps Reference No. NWS-2013-229**  
Statement of Understanding  
Water Quality Certification Conditions

I, \_\_\_\_\_, state that, I will be involved as an agent or contractor for Discovery Development in the site preparation and/or construction of the North 28<sup>th</sup> Street Townhouses located in the City of Long Beach, Pacific County, Washington. I further state that I have read and understand the relevant conditions of the Washington Department of Ecology Water Quality Certification Order No. **11348** and the applicable permits and approvals referenced therein which pertain to the project-related work for which I am responsible.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Company



**Attachment B**  
**Wetland Notice for Deed Notification**  
**(See Condition 12)**

Discovery Development  
North 28<sup>th</sup> Street Townhouses  
Water Quality Certification Order No. 11348  
And  
Corps Reference No. NWS-2013-229

Tax Parcel Number: \_\_\_\_\_

Legal Description: \_\_\_\_\_

Legal Owner: \_\_\_\_\_

NOTICE: This property contains wetlands as defined by Chapter 36.70A030(21) RCW, Chapter 90.58.030 (2)(h) RCW and WAC 173-201A-020. The property was the subject of an Ecology action under Chapter 90.48.260 RCW or Chapter 90.48.120(1) RCW.

\_\_\_\_\_, issued on \_\_\_\_\_, 20\_\_\_\_  
(Corps federal reference #) (Ecology Docket #)

to \_\_\_\_\_ for \_\_\_\_\_  
(Applicant Name) (Project Name)

Restrictions on use or alteration of the wetlands may exist due to natural conditions of the property and resulting regulations. A copy of Ecology's Order and the site map from the final wetland mitigation plan indicating the location of wetlands and their buffers is attached hereto.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

State of Washington)  
County of \_\_\_\_\_)

I certify that I know or have satisfactory evidence that \_\_\_\_\_  
signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes  
mentioned in this instrument.

GIVEN under my hand an official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC in and for the state of Washington,  
residing at \_\_\_\_\_.

(Amended by Ord. 11200 § 50 (part), 1996)

